

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

James C. Whaley, #1001117,)	
a/k/a James C. Whaley, #357132,)	C.A. No. 4:23-1448-HMH-TER
)	
Petitioner,)	
)	
vs.)	OPINION & ORDER
)	
)	
Nick Gallam,)	
)	
Respondent.)	

This matter is before the court for review of the Report and Recommendation of United States Magistrate Judge Thomas E. Rogers, III made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina.¹ James C. Whaley (“Whaley”) is a pro se state prisoner seeking habeas corpus relief pursuant to 28 U.S.C. § 2254. In his Report and Recommendation filed on April 18, 2023, Magistrate Judge Rogers recommends that Whaley’s § 2254 petition be dismissed without prejudice and without requiring the respondent to file a return, as successive and unauthorized. (R&R, generally, ECF No. 7.)

Whaley filed timely objections to the Report and Recommendation. (Objs., ECF No. 9.) Objections to the Report and Recommendation must be specific. Failure to file specific objections constitutes a waiver of a party’s right to further judicial review, including appellate

¹ The recommendation has no presumptive weight, and the responsibility for making a final determination remains with the United States District Court. See Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the magistrate judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

review, if the recommendation is accepted by the district judge. See United States v. Schronce, 727 F.2d 91, 94 & n.4 (4th Cir. 1984). In the absence of specific objections to the Report and Recommendation of the magistrate judge, this court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

Upon review, Whaley's objections are non-specific, unrelated to the dispositive portions of the magistrate judge's Report and Recommendation, or merely restate his claims. Further, Whaley agrees that the instant § 2254 petition is successive. Therefore, after a thorough review of the magistrate judge's Report and the record in this case, the court adopts Magistrate Judge Rogers' Report and Recommendation and incorporates it herein.

It is therefore

ORDERED that Whaley's § 2254 petition is dismissed without requiring the respondent to file an answer or return, as successive and unauthorized. It is further

ORDERED that a certificate of appealability is denied because Whaley has failed to make "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2).

IT IS SO ORDERED.

s/Henry M. Herlong, Jr.
Senior United States District Judge

Greenville, South Carolina
May 1, 2023

NOTICE OF RIGHT TO APPEAL

The Petitioner is hereby notified that he has the right to appeal this order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.